

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	John McCafferty, et al.	Title:	METHOD FOR PRODUCING MEMBERS OF SPECIFIC BINDING PAIRS
App. No.:	09/417,478	Art Unit:	1639
Conf. No.:	8812	Examiner:	Liu, Sue Xu
Filing Date:	October 13, 1999		

**RENEWED PETITION TO EXPUNGE DOCUMENTS
PURSUANT TO 37 C.F.R § 1.59 SUBMITTED IN AN INFORMATION
DISCLOSURE STATEMENT UNDER 37 C.F.R. §§ 1.97-1.99**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit herewith a renewed petition respectfully requesting that certain documents transmitted with the Information Disclosure Statement on November 20, 2002 be expunged (copy enclosed). The attached Petition Decision dated August 4, 2003 indicates upon allowance of the application, applicants should submit a renewed petition to expunge the proprietary material and provide clarification as to the number of references to be expunged.

A Notice of Allowance for the above-identified patent application issued on December 9, 2009 (copy enclosed). The specific references to be expunged are (listed numerically as they appear on the PTO/SB/08A):

6. Redacted Agreement between Medical Research Council, Cambridge Antibody Technology Limited and Cambridge Antibody Technology Group plc, dated 1/7/97 (financial terms redacted);

15. Chiswell memo, dated July 30, 1990, transmitting a copy of the Collaborative Agreement between Cambridge Antibody Technology and The Medical Research Council, dated July 27, 1995;
20. Administration Agreement between Cambridge Antibody Technology Ltd. and Medical Research Council, 8/1/91 (financial terms redacted);
21. Fax from John McCafferty (of Cambridge Antibody Technology Limited) to S. Walton (of Mewburn Ellis) Re: Smith Grant Application;
22. E-mail message from John McCafferty (of Cambridge Antibody Technology Limited) to Brian Kay Re: Smith Grant Application;
23. Letter from John McCafferty (of Cambridge Antibody Technology Limited) to Craig Palmer (of Academic Press) Re: Smith Grant;
24. Fax to John McCafferty (of Cambridge Antibody Technology Limited) from Craig Panner (of Academic Press) dated June 10, 1996; and
25. Smith, G. P., "1988 – A Year of Discovery", *Phage Display of Peptides and Proteins*, Academic Press, Inc. (1996), pp. xvii-xix.

The cited references subject to the protective order were transmitted in a sealed envelope and marked as follows:

MATERIAL SUBJECT TO PROTECTIVE ORDER

**NOT OPEN TO PUBLIC. TO BE OPENED BY EXAMINER
EXAMINER OR OTHER AUTHORIZED U.S. PATENT AND
TRADEMARK OFFICE EMPLOYEE:**

**Tribunal Issuing Protective Order: U.S. District Court for the District of
Columbia, Judge James Robertson**

Civil Action No.:	1:00 CV 00146
Date of Order:	March 13, 2002
Status of Proceedings:	Not pending
In Re Application of:	McCafferty, <i>et al.</i>
Application No.	09/416,902
Filed:	October 13, 1999
For:	METHODS FOR PRODUCING MEMBERS OF SPECIFIC BINDING PAIRS
Group Art Unit:	1639
Examiner:	Amber D. Steele

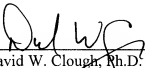
Pursuant to 37 C.F.R. § 1.59, Applicants respectfully request that the above-identified documents be expunged from the record and returned to the undersigned attorney.

As indicated on the attached Petition Decision, no additional fees are believed to be due in connection with the filing of this renewed petition since the petition fee was previously paid on November 20, 2002. However, should any additional fees be deemed necessary, and proper, the Commissioner is hereby authorized to deduct any such fees from Deposit Account 08-3038.

Respectfully submitted,
HOWREY LLP

Dated: January 12, 2010

By:


David W. Clough, Ph.D.
Registration No.: 36,107
Customer No.: 22930
Telephone No.: (312) 595-1408

HOWREY LLP
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2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042-2924
Facsimile No.: (703) 336-6950



PATENT
Attorney Docket No. 213839-00010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: McCafferty, *et al.*

Serial No.: 09/417,478

Filed: October 13, 1999

Title: Methods for Producing
Members of Specific Binding
Pairs

Group Art Unit: 1627

Examiner: P. Ponnaluri

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the
United States Postal Service on the date shown below
with sufficient postage as first class mail in an envelope
addressed to: Attention: Office of Petitions,
Commissioner for Patents, Washington, D.C. 20231.

11/20/02
Date

David W. Clough, Ph.D.
Registration No. 36,107

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
PURSUANT TO 37 C.F.R. § 1.97-1.99
FILED WITH PETITION TO EXPUNGE
PURSUANT TO 37 C.F.R. § 1.59**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This Information Disclosure Statement is being submitted pursuant to the applicants' duty of candor and in particular to the applicants' duty to disclose, under MPEP § 2001.06(c), information from related litigation such as the charges of inequitable conduct in the parent of the present application, now U.S. Patent No. 5,969,108 (the '108 patent). Applicants request that the documents listed on the attached Form PTO/SB/08A be made of official record in the above-identified application and considered by the Examiner.

Some of the documents being submitted are subject to a protective order in Civil Action No. 1:00 CV 00146 and are being submitted in a sealed, clearly labeled envelope for consideration under MPEP § 724. A Petition to Expunge under 37 C.F.R. § 1.59, along with the fee of \$130 pursuant to 37 C.F.R. § 1.17(h) are also enclosed herewith. If the submitted

documents are found not to be important in deciding whether to allow the application to issue as a patent, applicants respectfully request that the Petition to Expunge under 37 C.F.R. § 1.59 be granted and the documents identified below be returned to the attorney for applicant.

1. Agreement between Medical Research Council, Cambridge Antibody Technology Limited and Cambridge Antibody Technology Group plc, dated 1/7/97 (financial terms redacted);
2. Chiswell memo, dated July 30, 1990, transmitting a copy of the Collaborative Agreement between Cambridge Antibody Technology and The Medical Research Council, dated July 27, 1995; and
3. Administration Agreement between Cambridge Antibody Technology Ltd. and Medical Research Council, 8/1/91 (financial terms redacted).

This same Supplemental Information Disclosure Statement is being filed simultaneously in related application nos. 09/196,522; 09/196,673; 09/309,639; 09/416,902; 09/196,586; 09/417,479; 09/706,507; and 09/726,219. Each of these related applications is currently under examination by Examiner Ponnaluri. In view of the filing of the Petition to Expunge, applicants are transmitting a single copy of the cited references for consideration in each of the related applications.

**Inequitable Conduct Allegations Involving
U.S. Patent No. 5,969,108 (parent of the present application)**

The following is a brief summary of the allegations being made by MorphoSys AG with respect to inequitable conduct in obtaining the '108 patent. MorphoSys has alleged inequitable conduct on the part of Cambridge Antibody Technology Limited, ("CAT"), one of the assignees of the '108 patent, in obtaining the '108 patent. The subject matter claimed in the '108 patent generally relates to the display of single chain antibodies on the surface of filamentous bacteriophage.

One of the bases for the allegation of inequitable conduct is that the applicants did not disclose to the U.S. Patent & Trademark Office a National Institute's of Health ("NIH") grant application by Dr. George Smith relating to the display of small peptides on the surface of phage and which contains a prophetic disclosure of the display of single chain antibodies on the surface of phage which Dr. Smith characterized as speculative in the text of the grant. Documents (including deposition testimony) submitted herewith relate *inter alia* to the

specific allegations made by MorphoSys with regard to this issue, including communications between CAT personnel and their attorneys relating to their knowledge of the existence and public availability of the Smith grant application, and the allegedly cumulative nature of the application in view of what was already before the Patent Office and Dr. Smith's own characterization of what would constitute the invention of the display of single chain antibodies on phage made in a "Declaration" several years after his receipt of the NIH grant.

There is disagreement between CAT and MorphoSys regarding *inter alia* the actual public availability of a Smith grant application, its alleged cumulative and speculative nature in view of material already before the U.S. Patent & Trademark Office and the problems cited by Dr. Smith in his discussion of the display of single chain antibodies on phage in the grant application.

An allegation has also been made that CAT engaged in inequitable conduct by not disclosing to the Patent Office the Smith grant application as relevant to rebut arguments made to the PTO that the art taught away from the display of large peptides on the surface of phage. Nevertheless, the Examiner of the '108 case found that the applicants' arguments regarding that issue had already been rebutted by U.S. Patent No. 5,427,908 to Dower *et al.*, which was already of record in that case and is of record in the present application.

MorphoSys has further alleged that CAT has committed inequitable conduct for their alleged failure to point out the inventor and invention date of each claim that was not commonly owned by CAT and The Medical Research Council ("MRC"), both assignees of the '108 patent, at the time a later invention was made to allow consideration of the applicability of 35 U.S.C. §102(f) or (g) prior art under 35 U.S.C. § 103(a). MorphoSys alleges that CAT has failed to show that the subject matter and the claims were, at the time the invention was made, commonly owned. CAT's position supported by deposition testimony (attached herewith) is that there was a clear understanding that the subject matter of each and every claim was commonly owned at all times and the later written agreements submitted herewith simply memorialized the basic understanding between CAT and MRC.

The following documents are being submitted herewith which were recently filed, held or are relevant to the litigation involving the parent of this application in the U.S.

District Court District of Columbia (U.S. District Court, District of Columbia, Civil Action No. 1:00 CV 00146).

1. First Amended Complaint, filed March 8, 2002;
2. Cambridge Antibody Technology Limited's Answer to First Amended Complaint, filed March 22, 2002;
3. Redacted Agreement between Medical Research Council, Cambridge Antibody Technology Limited and Cambridge Antibody Technology Group plc, dated 1/7/97 (**Subject to the Petition to Expunge**);
4. Deposition Transcript of David W. Clough, taken April 19, 2002;
 - a. E. I. du Pont de Nemours & Co. v. Cetus Corp., 19 USPQ2d 1174, (DC D/N.Cal. 1990) cited in Deposition Transcript of David W. Clough, taken April 19, 2002;
 - b. OddzOn Products Inc. v. Just Toys Inc., 43 USPQ2d 1641 (CAFC 1997), cited in Deposition Transcript of David W. Clough, taken April 19, 2002;
5. Deposition Transcript of George P. Smith, Ph.D., taken May 14, 2002;
6. Deposition Transcript of Dr. David Chiswell, taken April 29, 2002;
7. Deposition Transcript of Dr. Gregory Paul Winter, taken April 30, 2002;
8. Volume I – Deposition Transcript of Sean Malcolm Walton, taken May 1, 2002;
9. Volume II – Deposition Transcript of Sean Malcolm Walton, taken May 2, 2002;
10. Chiswell memo, dated July 30, 1990, transmitting a copy of the Collaborative Agreement between Cambridge Antibody Technology and The Medical Research Council, dated July 27, 1995 (**Subject to the Petition to Expunge**);
11. Declaration of George P. Smith Under 37 C.F.R. § 1.132, executed June 30, 1995 (submitted during the prosecution of U.S. Application No. 08/322,352);

12. Declaration of Professor Brian K. Kay, Ph.D., executed June 28, 1998 (submitted during the prosecution of European Patent Application No. 91913039.3);
13. Abstract of George P. Smith Grant No. 1R01GM41478-01A1.
14. Smith Grant Application, dated November 1, 1988; and
15. Administration Agreement between Cambridge Antibody Technology Ltd. and Medical Research Council, 8/1/91 (**Subject to the Petition to Expunge**).
16. Fax from John McCafferty (of Cambridge Antibody Technology Limited) to S. Walton (of Mewburn Ellis) Re: Smith Grant Application.
17. E-mail message from John McCafferty (of Cambridge Antibody Technology Limited) to Brian Kay Re: Smith Grant Application.
18. Letter from John McCafferty (of Cambridge Antibody Technology Limited) to Craig Palmer (of Academic Press) Re: Smith Grant Application.
19. Fax to John McCafferty (of Cambridge Antibody Technology Limited) from Craig Panner (of Academic Press) dated June 10, 1996.
20. Smith, G. P., "1988 – A Year of Discovery", *Phage Display of Peptides and Proteins*, Academic Press, Inc. (1996), pp. xvii-xix.
21. Northern Telecom Inc. v. Datapoint Corp., 15 USPQ 1321 (CAFC 1990).

Documents 1-12 and 15 are individually listed below with cites to the relevant testimony.

First Amended Complaint, filed March 8, 2002

Page	Line	
6	1	Allegations regarding Smith grant/
thru		inequitable conduct
21	12	

**Cambridge Antibody Technology Limited's
Answer to First Amended Complaint, filed March 22, 2002**

Page	Line	
7	8	Response to allegations regarding Smith grant/ inequitable conduct
thru		
29	22	

Deposition Transcript of David W. Clough, taken April 19, 2002

Page	Line	
21	10	Testimony regarding Smith grant
thru		
25	10;	
27	1-15;	
29	10	
thru		
32	24;	
33	11	
thru		
40	20;	
46	4-10;	
55	22	
thru		
57	16;	
65	10	
thru		
66	14;	
68	10	
thru		
84	24;	
88	20	
thru		
95	5;	
96	16-19;	
97	22	
thru		
99	6;	
100	15-24;	
101	12-21;	
102	22	
thru		
104	24;	

Deposition Transcript of David W. Clough, taken April 19, 2002 (Continued)

Page	Line	
105	13	Testimony regarding Smith grant
thru		
108	4;	
108	13-22;	
109	14-20	
111	1	
thru		
112	3;	
123	3-15;	
125	1	
thru		
131	2;	
131	12	
thru		
132	8;	
141	12-15;	
142	3-15;	
148	9	
thru		
152	7;	
153	10	
thru		
154	14;	
155	14	
thru		
156	9;	
176	8-24	
105	13	Testimony regarding '96 knowledge of Smith grant
thru		
109	20	
171	15	
thru		
175	12	
Page	Line	
176	18	Testimony regarding DuPont v. Cetus
thru		
177	20	
Page	Line	
179	14-15	Testimony regarding Oddzn Products v. Just Toys Inc.

Deposition Transcript of George P. Smith, Ph.D., taken May 14, 2002

Page	Line	
31	8	Testimony regarding Smith grant
	thru	
39	17;	
40	4	
	thru	
49	15;	
50	25	
	thru	
53	25;	
61	20	
	thru	
62	12;	
64	5	
	thru	
65	25;	
67	6	
	thru	
68	8;	
92	1-22;	
100	24	
	thru	
101	13;	
104	10-17;	
106	12-21;	
111	7	
	thru	
112	12;	
132	12-25;	
141	21	
	thru	
142	16;	
143	14	
	thru	
146	25;	
148	23	
	thru	
149	1;	
155	14-22;	
157	8	
	thru	
158	4;	
162	8-20;	

Deposition Transcript of George P. Smith, Ph.D., taken May 14, 2002

Page	Line	
166	10	Testimony regarding Smith grant
	thru	
167	12;	
183	2-23.	

Deposition Transcript of Dr. David Chiswell, taken April 29, 2002

Page	Line	
119	23	Testimony regarding Smith grant
	thru	
124	1;	
128	5	
	thru	
129	5;	
204	19	
	thru	
209	22	

Page	Line	
37	2	Testimony regarding Chiswell memo
	thru	
66	4;	
94	17	
	thru	
96	2	

Page	Line	
None		Testimony regarding '96 knowledge of Smith grant

Page	Line	
157	7	Testimony regarding common ownership
	thru	
158	17;	
215	19	
	thru	
219	15	

Deposition Transcript of Dr. Gregory Paul Winter, taken April 30, 2002

Page	Line	
123	11-14;	Testimony regarding Smith grant
130	22	
	thru	
139	14.	
Page	Line	
None		Testimony regarding '96 knowledge of Smith grant
Page	Line	
74	1	Testimony regarding common ownership
	thru	
77	22	
79	16	
	thru	
80	16	
82	1-11	
181	18	
	thru	
182	24	
222	3	Testimony regarding common ownership
	thru	
225	13	

Volume I

Deposition Transcript of Sean Malcolm Walton, taken May 1, 2002

Volume II

Deposition Transcript of Sean Malcolm Walton, taken May 2, 2002

Page	Line	
16	8	Testimony regarding Smith grant
	thru	
18	2;	
31	20	
	thru	
59	23;	
64	11	
	thru	
91	6;	

Volume I
Deposition Transcript of Sean Malcolm Walton, taken May 1, 2002
Volume II
Deposition Transcript of Sean Malcolm Walton, taken May 2, 2002
(Continued)

Page	Line	
93	25	Testimony regarding Smith grant:
thru		
95	9;	
95	19	
thru		
96	4;	
97	19	
thru		
106	21;	
108	14	
thru		
109	23;	
110	12	
thru		
111	1;	
132	17-23;	
133	15	
thru		
140	25;	
165	21	
thru		
166	18;	
170	1-9;	
173	16	
thru		
176	11;	
199	6	
thru		
208	23;	
228	11-13;	
230	8-16;	
231	7-9;	
232	25	
thru		
243	22;	
246	16	
thru		
247	10;	

Volume I

Deposition Transcript of Sean Malcolm Walton, taken May 1, 2002

Volume II

Deposition Transcript of Sean Malcolm Walton, taken May 2, 2002

(Continued)

Page Line

249 23

Testimony regarding Smith grant:

thru

257 22;

267 5

thru

268 18;

270 21

thru

277 22;

285 2

thru

289 19;

321 24

thru

322 13;

322 18-23;

323 5

thru

328 11

Page Line

82 17

Testimony regarding '96 knowledge of Smith grant:

thru

90 8;

95 19

thru

96 4;

97 19

thru

101 5;

103 3

thru

106 21;

108 14

thru

111 1;

Volume I
Deposition Transcript of Sean Malcolm Walton, taken May 1, 2002
Volume II
Deposition Transcript of Sean Malcolm Walton, taken May 2, 2002
(Continued)

Page	Line	
133	15	Testimony regarding '96 knowledge of Smith grant:
thru		
140	25;	
205	5	
thru		
208	23;	
271	19	
thru		
277	22;	
285	2	
thru		
289	19; and	
321	24	
thru		
328	11	
Page	Line	
179	22	Testimony regarding common ownership:
thru		
184	17;	
186	16	
thru		
191	8;	
192	22	
thru		
195	19	

Chiswell memo, dated July 30, 1990,
(transmitting a copy of the Collaborative Agreement between Cambridge Antibody
Technology and The Medical Research Council, dated July 27, 1995)
(Subject to Petition to Expunge)


Declaration of George P. Smith Under 37 C.F.R. § 1.132

Page	Line	
2	7-9;	Inequitable conduct
4	3-9	

Finally, attorney for applicants submit herewith a reference (Il'ichev, A.A., *et al.*, "M13 Filamentous Bacteriophage in Protein Engineering", *Molekulyarnaya Biologiya*, Vol. 24, No. 2, pp. 530-535, (March-April 1990)(two versions – one in Russian (with a one-page abstract) and a translation of the same reference) and a patent which were recently brought to applicants' attention.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 50-1214. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-1214.

Respectfully submitted,



David W. Clough, Ph.D.
Registration No. 36,107
Attorney for Applicant

November 20, 2002
Katten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, Illinois 60661-3696
(312) 902-5464
(312) 557-8736

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NOV 26 2002

PTO/SB/08A (10-01)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office, DEPARTMENT OF COMMERCE
NOT FOR PUBLICATION

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Sheet 1 of 3

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

(Use several sheets if necessary)

Docket Number
213839-00010Application Number
09/417,478Applicant
McCafferty et al.Filing Date
October 13, 1999Group Art Unit
1627

U. S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROP.
1	6 3 3 1 4 1 5		Cabilly et al.	435	69.6	6/10/88

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	Translation
					Yes No

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

2	First Amended Complaint, Filed March 8, 2002 - Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (24 pages) (U.S. District Court, District of Columbia)(signed by John S. Skilton, Attorney for Plaintiff.)
3	Cambridge Antibody Technology Limited's Answer to First Amended Complaint, Filed March 22, 2002 - Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia)(signed by Brian H. Corcoran, Attorney for Defendant).
4	Il'ichev, A.A., et al., "M13 Filamentous Bacteriophage in Protein Engineering", Molekulyarnaya Biologiya, Vol. 24, No. 2, pp. 530-535, (March-April 1990).
5	Il'ichev, A.A., et al., "M13 Filamentous Bacteriophage for Protein Engineering", Molekulyarnaya Biologiya, Vol. 24, No. 2, pp. 530-535, (March-April 1990). (In Russian with Translated Abstract)
6	Redacted Agreement Between Medical Research Council and Cambridge Antibody Technology Limited and Cambridge Antibody Technology Group plc, made 01 January 1997
7	Deposition Transcript of David W. Clough, taken April 19, 2002 (Morphosys AG v. Cambridge Antibody Technology Limited, (U.S. District Court, Northern District of Illinois, Eastern Division).
8	E.I. du Pont de Nemours v. Cetus Corp., 19 USPQ2d 1174, (DC N.Cal. 1990).
9	OddzOn Products Inc. v. Just Toys Inc., 43 USPQ2d 1641(CAFC 1997).

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



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NOV 26 2002

TECH CENTER 18002800

Approved for Release by NSA (10-01) under E.O. 13526, DATE 05-11-2001

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Sheet 2 of 3

Substitute for form 1449A/PTO				Docket Number 213839-00010		Application Number 09/417,478	
INFORMATION DISCLOSURE				Applicant McCafferty <i>et al.</i>			
STATEMENT BY APPLICANT							
(Use several sheets if necessary)				Filing Date October 13, 1999		Group Art Unit 1627	
U. S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROP.	
FOREIGN PATENT DOCUMENTS							
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	Translation Yes No	
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)							
10	Deposition Transcript of George P. Smith, Ph.D., taken 14 May 2002, Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia.)						
11	Deposition Transcript of Dr. David Chiswell, taken 29 April 2002; Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia.)						
12	Deposition Transcript of Dr. Gregory Paul Winter, taken April 30, 2002; Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia.)						
13	Vol. I - Deposition Transcript of Sean Malcolm Walton, taken 01 May 2002, Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia.)						
14	Vol. II - Deposition Transcript of Sean Malcolm Walton, taken 02 May 2002, Morphosys AG v. Cambridge Antibody Technology Limited, Case No. 1:00-CV-00146 (30 pages) (U.S. District Court, District of Columbia.)						
15	Chiswell memo, dated 30 July 1990, transmitting a copy of the Collaborative Agreement between Cambridge Antibody Technology and The Medical Research Council, dated July 27, 1995.						
16	Declaration of George P. Smith, Ph.D., Under 37 C.F.R. § 1.132, executed 30 June 1995 (submitted during the prosecution of U.S. Application No. 08/322,352).						
17	Declaration of Brian K. Kay, Ph.D., executed 28 June 1998, (submitted during the prosecution of European Appln. No. 91913039.3)						
EXAMINER				DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.							



RECEIVED

NOV 26 2002

TECH. CENTER 49007200

PTO/SB/08A (10-01)

OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Sheet 3 of 3

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

(Use several sheets if necessary)

Docket Number

213839-00010

Application Number

09/417,478

Applicant

McCafferty et al.

Filing Date

October 13, 1999

Group Art Unit

1627

U. S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROP.

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	Translation	
					Yes	No

OTHER DOCUMENTS

(Including Author, Title, Date, Pertinent Pages, Etc.)

18	Abstract of George P. Smith, Grant No. 1R01GM41478-01A1, Project Start Date: July 1, 1989.
19	Smith Grant Application, entitled: "Filamentous Phage Physiology", dated November 1, 1988
22	Administration Agreement between Cambridge Antibody Technology Ltd. and Medical Research Council, dated 01 August 1991 (Redacted).
21	Fax from John McCafferty (of Cambridge Antibody Technology Limited) to Sean Walton (of Mewburn Ellis) regarding the Smith grant application.
22	E-mail message from John McCafferty (of Cambridge Antibody Technology Limited) to Brian Kay regarding the Smith grant application
23	Letter to Craig Panter (of the Academic Press) from John McCafferty (Cambridge Antibody Technology Limited) regarding the Smith grant application
24	Fax to John McCafferty, Ph.D. (of Cambridge Antibody Technology Limited) from Craig Panter (of Academic Press) dated June 10, 1996.
25	Smith, G. P., "1988 - A Year of Discovery", <i>Phage Display of Peptides and Proteins</i> , Academic Press, Inc. (1996), pp. xvii-xix.
26	Northern Telecom Inc. v. Datapoint Corp., 15 USPQ 1321, (CAFC 1990)

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



UNITED STATES
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
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AUG 4 2003

DAVID W. CLOUGH, PH.D.
KATTEN MUCHIN ZAVIS
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SUITE-1600
CHICAGO IL 60661-3693

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In re Application of :
John McCafferty et al :
Serial No.: 09/417,478 : PETITION DECISION
Filed: October 13, 1999 :
Attorney Docket No.: 213839-00010 :

This is a response to the petition under 37 CFR 1.59(b), filed November 25, 2002, to expunge information from the above identified application. The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that documents submitted as a Proprietary Information Disclosure Statement under a court Protective Order be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid. It is noted that applicants identify three specific documents contained in the envelope as material to be returned. However, the envelope contains four additional documents whose return is not specifically requested. Thus it is not completely clear whether only three documents are to be returned or all seven. A renewed petition at the close of prosecution should clarify this inconsistency.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified documents are considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant upon close of prosecution. See, in general, M.P.E.P. 724.02.

The petition is at this time **DISMISSED** subject to submission of a renewed petition at the time of allowance or abandonment of the application. No additional petition fee will be required for the renewed petition.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230



Bruce M. Kisliuk
Director, Technology Center 1600



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NOTICE OF ALLOWANCE AND FEE(S) DUE

22930 7590 12/29/2009

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER

LIU, SUE XU

ART UNIT

PAPER NUMBER

1639

DATE MAILED: 12/29/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/417,478	10/13/1999	JOHN MCCAFFERTY	05569.0004.DVUS07	8812

TITLE OF INVENTION: METHODS FOR PRODUCING MEMBERS OF SPECIFIC BINDING PAIRS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	03/29/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.